

Regulatory Updates – February 2018

Recently Published Rules

The **National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations** final rule was signed 1/18/18, and published in the **Federal Register** on 1/29/18, at 83 FR 3986. This action finalizes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO). The final amendments address continuous monitoring on pressure relief devices (PRDs) on containers. This issue was raised in a petition for reconsideration of the 2015 amendments to the OSWRO NESHAP, which were based on the residual risk and technology review. Among other things, the 2015 amendments established additional monitoring requirements for all PRDs, including PRDs on containers. For PRDs on containers, these monitoring requirements were in addition to the inspection and monitoring requirements for containers and their closure devices already required by the OSWRO NESHAP. This final action removes the additional monitoring requirements for PRDs on containers that resulted from the 2015 amendments because we have determined that they are not necessary. This action does not substantially change the level of environmental protection provided under the OSWRO NESHAP, but reduces burden to this industry compared to the current rule by \$28 million in capital costs related to compliance, and \$4.2 million per year in total annualized costs under a 7-percent interest rate. Over 15 years at a 7-percent discount rate, this constitutes an estimated reduction of \$39 million in the present value, or \$4.3 million per year in equivalent annualized cost savings.

A notice announcing three public listening sessions and the reopening of the comment period for the **Repeal of Carbon Pollution Emission guidelines for Existing Stationary Sources: Electric utility Generating Units** was signed 1/17/18, and published in the **Federal Register** on 2/1/18, at 83 FR 4620. On October 16, 2017, the EPA published a proposal to announce its intention to repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, commonly referred to as the Clean Power Plan, as promulgated on October 23, 2015. The proposal also requested public comment on the proposed rule. The EPA held public hearings on November 28 and 29, 2017, in Charleston, West Virginia, and extended the public comment period until January 16, 2018. In response to numerous requests for additional opportunities for the public to provide oral testimony on the proposed rule in more than one location, the EPA is announcing that three listening sessions will be held. In addition, the EPA will reopen the public comment period until April 26, 2018. See **Public Listening Sessions** below for further information.

An **Issuance of Guidance Memorandum, “Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act”** notice was signed 1/25/18, and published in the **Federal Register** on 2/8/18, at 83 FR 5543. On January 25, 2018, the EPA issued the guidance memorandum titled “Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act,” which confirms the plain language reading of the definitions of “major source” in Clean Air Act (CAA) section 112(a)(1) and of “area source” in CAA section 112(a)(2), and withdraws the May 16, 1995, memorandum, “Potential to Emit for MACT Standards – Guidance on Timing Issues.” John Seitz, Director, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency. The EPA anticipates that it will soon publish a **Federal Register** notice to take comment on adding regulatory text that will reflect EPA’s plain language reading of the statute as discussed in this memorandum.

Public Listening Sessions

A News Release regarding three public listening sessions concerning the proposed rule, **Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units** (10/16/17, 82 FR 48035), was posted at: [[HYPERLINK](https://www.epa.gov/newsreleases/epa-announces-additional-public-listening-sessions-proposed-repeal-)

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clean-power-plan"]. The sessions will be held in Kansas City, Missouri on 2/21/18; San Francisco, California on 2/28/18; and Gillette, Wyoming on 3/27/18.